HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No. 10958 OF 1996

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Between:

Murari Laxmamma

……Petitioner

And

Mandal Revenue Officer,
Siddavatam Mandal,
Cuddapah Distrtict and others

……Respondents

:: ORDER ::

Counsel for the petitioners : Sri M.B.N.Srinivas representing Sri V. Venkataramana

Counsel for the Respondents : Government Pleader for Revenue

Dated: 05-04-2006

This is a petition for issuance of a writ in the nature of

mandamus directing the respondents to issue pattadar pass book to the petitioner in respect of land measuring Acs.4-94 cents comprised in Survey No.1063 of Peddapalle Village, Siddavatam Mandal, Cuddapah District. Another prayer made in the writ petition is to restrain the respondents from interfering with the petitioner's possession over the land in question.

A perusal of the record shows that the petitioner's claim for issuance of patta is founded on the premise that the land in question was assigned to her in the year 1985 and even though she had applied under the A.P Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the 1971 Act') for issuance of pattadar pass book and title deed, the concerned authority has not passed any order. She has relied on order dated
18-03-1996 passed by the learned Single Judge in Writ Petition No.4554 of 1996 and pleaded that the respondents cannot dispossess her without following the procedure established by law.

In the counter-affidavit filed by Sri M.Prabhakar Reddy, the then Mandal Revenue Officer, Sidhout, Kadapa District (respondent No.1 herein), it has been averred that after assignment of the land, the petitioner did not occupy the same and, therefore, the same was assigned to others. It has been further averred that she never applied for issuance of pattadar pass book and title deed in terms of Section 3 of the 1971 Act. This is evidenced from paragraphs 3 to 5 and 10 of the affidavit of respondent No.1, which are re-produced below:

> **3.** "In reply to para 2 of the petitioner's affidavit it is submitted that, the assignment made in favour of the petitioner Smt.Murari Lakshmamma W/o Venkata Ramana in D.K.T. No.33/95 dated:15.12.1985 was not incorporated in the village accounts Subsequently. As it is classified as A.W. land, as per the village accounts the land has been got subdivided and assigned to the

following persons in the year 1995 by mistake without verifying the records.

Sl.No.	Sy.No.	Extent	Name
1.	1063/1	Ac.1-50	Smt.Somala Chinnakka
2.	1063/1	Ac.1-5	Pothala Chinna Venkata Subbareddy
3.	1063/1	Ac.1-50	Somala Gangamma

4. The contention of the petitioner saying that the land is under her possession and enjoyment is not true as the land was lying waste, no crops raised till 1996. the then Mandal Revenue Inspector has inspected and given his report stating that the hold pattadar has never attempted to cultivate land there are no trails of clearing the jungle growth by the old pattadar. At present the above land is under enjoyment of the persons given below who are neither the assignees in 1985 nor the assignees in 1995.

Sl.No.	Sy.No.	Extent	Name
1.	1063/1	Ac.1-50	Dondapati Tirupalamma
2.	1063/2	Ac.1-50	Bonachi Ramachandra Reddy
3.	1063/3	Ac.1-50	Dondapati Venkata Subbareddy
4.	1063/4	Ac.0-44	A.W

Hence the raising of horse gram in the year 1995 by the petitioner is absolutely false not proved. The petitioner has not applied for issue of pattadar pass book, as the land is not in the name of the petitioner. Therefore the petitioner was not issued pattadar pass book. The land is not in the name of the petitioner as per the village accounts, the question of possession and enjoyment of the petitioner does not arise, and at the same time interference of the Revenue authorities in the

possession and enjoyment of the petitioner will not arise.

5. In reply to para 3 of the petitioner's affidavit it is submitted that, the land in s.No.1063 to an extent of Ac.4-90 of Peddapalli village was assigned during the year 1985 to the petitioner and the same land is again assigned to the above three persons at the rate of Ac-1-50 during the year 1995 after subdividing the land without resuming or canceling the original assignment made earlier during the year 1985 and the fact of double assignment was brought to notice only after the petition received from the old assignees during the prjala Vaddaku Palana at Bhakaapet on 14.12.1995. the Village Administrative Officer, peddapalli and the Mandal Revenue Inspector, Sidhout have reported that no changes were incorporated in the Village Accounts No.10(1) and adangal regarding the assignments made during the year 1985 and hence the land is re-assigned during the year 1995 treating the land as A.W. the pattadar pass book were also issued to the above beneficiaries who were granted D.K.T. Pattas during the year 1995.

10. I further submit that I have enquired and inspected the present stage of the land in person on 28.11.2004 along with Mandal Revenue Inspector and Panchayat Secretary of concerned village. During my enquiry, it is revealed that the land was not brought under cultivation by the petitioner or by the D.K.T. Pattadar who got D.K.T. in the year 1995, at present the land in S.No.1063/1 to an extent of Ac.1-50, 1063/2 to an extent of Ac.1-50, 1063/3 to an extent of Ac.1-50 have been occupied by the following persons and raised crops as noted below.

Sl.No.	Name of the Occupant	S.No.	Extent in Acres	Crop Raised
1.	Dondapati Tirupalamma W/o Venkata Rama Reddy	1063/1	1-50	Turmeric

2.	Bonachi Ramachandra Reddy S/o Jayaramireddy	1063/2	1-50	Paddy
3.	Dondapati Venkata Subba Reddy S/o Chinna Venkata Reddy	1063/3	1-50	Paddy

The above occupants are displaced persons under Somasila Project and residents of Madhavaram Village and Chamundeswari Peta Village of Sidhout Mandal. They are poor and eligible persons for grant of D.K.T.Pattas. Therefore the petitioner as well as above three D.K.T. pattadars who got D.K.T. pattas under Dharakhast rules as it is fit for cancellation and it is appropriate for resumption of land to the Government, so that eligible landless poor will be benefited. Hence there are no merits in the writ petition".

The petitioner has not filed rejoinder affidavit to controvert the averments contained in the counter affidavit filed on behalf of the respondents.

I have heard learned counsel for parties and perused the record.

Since the petitioner has not produced any tangible evidence to show that she had applied for issuance of pattadar pass book, her assertion that respondent No.1 has failed to decide the application made by her cannot be made basis for issuance of a mandamus to the said respondent to decide the application.

There is another insurmountable difficulty in granting relief to the petitioner. The land assigned to her has been subsequently assigned to three other persons and presently the same is being

cultivated by some other persons. None of them has been impleaded as party respondent so as to enable the Court to issue notice to them and then decide entitlement of the petitioner and the new assignees to hold and possess the land in question.

For the reasons mentioned above, the writ petition is dismissed.

G.S. SINGHVI, CJ

05-04-2006
ks/vtv